

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JAMES SKIP HULSEY,

Plaintiff,

v.

WARDEN WILLIAM H JONES, ET AL.,

Defendants.

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Case No. 6:19-CV-108-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff James Skip Hulsey, an inmate proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On January 27, 2020, the Magistrate Judge issued a Report and Recommendation (Docket No. 61), recommending that Defendants' motions to dismiss and motion for summary judgment be granted in part and denied in part. *Id.* at 21. Plaintiff filed objections on February 18, 2020. Docket No. 64. No Defendant filed objections.

The Court overrules Plaintiff's objections. Plaintiff objects only to the recommendation to dismiss his claims against Defendants Leonard, Singleton, Handrick, Gutierrez, Littlefield, and Dears for monetary damages in their official capacities. Plaintiff states: "All defendant[s] are sued in his individual[] and official capacity at all times mentioned in this complaint and each defendant acted under the color of state law." *Id.* at 1. However, as the Magistrate Judge properly concluded, the Eleventh Amendment "shields state officials sued in their official capacity and bars all relief sought against official capacity defendants except prospective injunctive relief." *Baldwin v. Univ. of Tex. Med. Branch at Galveston*, 945 F. Supp.

1022, 1030–31 (S.D. Tex. 1996) (dismissing official capacity claims for monetary relief against defendant doctors); *see, e.g., Oliver v. Scott*, 276 F.3d 736, 742 (5th Cir. 2002) (“We . . . have held that the Eleventh Amendment bars recovering § 1983 money damages from TDCJ officers in their official capacity.”).

Having made a *de novo* review of the objections raised by Plaintiff to the Magistrate Judge’s Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Plaintiff’s objections are without merit. The Court therefore adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

Accordingly, it is hereby **ORDERED** that the Report and Recommendation (Docket No. 61) be **ADOPTED**. It is further

ORDERED that the motion to dismiss filed by Defendant Dr. Leonard (Docket No. 23) is **GRANTED** as to claims for monetary damages against Dr. Leonard in his official capacity, and **DENIED** in all other respects. It is further


ORDERED that the motion to dismiss filed by Defendants Singleton, Handrick, Gutierrez, Littlefield, and Dears (Docket No. 24) is **GRANTED** in its entirety as to Littlefield and Dears, and **GRANTED** as to Singleton, Handrick, and Gutierrez with regard to Plaintiff’s claims of placement in an unsanitary cell, retaliation, confiscation and breaking of his typewriter, and any claims for monetary damages against them in their official capacities. The motion is **DENIED** as to Plaintiff’s claims against Singleton, Handrick, and Gutierrez for excessive force and denial of medical care. Littlefield and Dears shall be dismissed as parties to this lawsuit. It is further

ORDERED that Defendants’ motion for summary judgment on the issue of exhaustion of administrative remedies (Docket No. 52) is **DENIED**. The denial of this motion does not affect Defendants’ motion to supplement the motion for summary judgment (Docket No. 62), which is

GRANTED. Defendants' supplement to the motion for summary judgment shall be addressed at a later time. It is further

ORDERED that the claims against Defendant Warden Jones are **DISMISSED WITHOUT PREJUDICE** as frivolous and for failure to state a claim upon which relief may be granted. Warden Jones shall be terminated as a party to this lawsuit.

So **ORDERED** and **SIGNED** this **23rd** day of **March, 2020**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE